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REMARKS

Applicants would like to thank the Examiner for the careful consideration given this case. Claims 1-27 are pending in this Application. Applicants hereby respond to the restriction requirement made in the Office Action.

The following groups of claims have been distinguished by the Examiner:

Group I – Claims 1-8 in part, drawn to compounds of formula I;

Group II – Claims 1-8 in part, drawn to compounds of formula I;

Group III – Claims 1-8 in part, drawn to compounds of formula I;

Group IV – Claims 1-8 in part, drawn to compounds of formula I;

Group V – Claim 9, drawn to a process for preparing compounds of formula Ib;

Group VI – Claims 10-15, drawn to transition metal complexes;

Group VII – Claim 17, drawn to catalysts;

Group VIII – Claims 18-25, drawn to preparation of stereoisomerically enriched compounds using transition metal catalysts;

Group IX – Claim 26, drawn to compounds of formula XIV; and

Group X – Claim 27, drawn to compounds of formula XVIII.

Applicants respectfully traverse the restriction requirement and request reconsideration. In order to be fully responsive, Applicants have provisionally elected, with traverse, Claims of Group I (1-8 in part) drawn to the compounds of Formula I encompassing the species wherein X is oxygen; and R¹ and R² may each independently be hydrogen, C₁-C₂₀-alkyl, C₁-C₂₀-fluoroalkenyl or NR⁶R⁷, OR⁷, -(C₁-C₈-alkyl)-NR⁶R⁷, or -O₂CR⁷; and R⁶ and R⁷ together are a cyclic amino radical having a total of 4-20 carbon atoms; and R³ and R⁴ are each independently R¹², OR¹³ or NR¹⁴R¹⁵ where R¹², R¹³, R¹⁴, and R¹⁵ are each independently C₁-C₁₂-alkyl, C₅-C₁₅-arylalkyl or C₄-C₁₄-aryl, or NR¹⁴R¹⁵ together is a cyclic amino radical having 4-20 carbon atoms, or R³ and R⁴ together are -O-R¹⁶-O- where R¹⁶ is a radical selected from the group consisting of C₂-C₄-alkylene, 1,2-phenylene, 1,3-phenylene, 1,2-cyclohexylene, 1,1'-ferrocenylene, 1,2-ferrocenylene, 2,2'-(1,1'-binaphthylene), 2,2'-(1,1')-biphenylene, and 1,1,'-(diphenyl-

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2

2,2'-methylene)diyl, and the radicals mentioned may optionally be mono- or polysubstituted by radicals selected from the group consisting of fluorine, chlorine, C₁-C₈-alkoxy and C₁-C₈-alkyl; and R⁵ is hydrogen, C₁-C₂₀-alkyl, C₄-C₂₄-aryl, C₅-C₂₅-arylalkyl, C₁-C₂₀-haloalkyl or radical of the formula (IIb).


The Examiner alleges that groups I – IV and IX – X are independent and distinct from one another because these groups involve the use of X groups that are recognized in the art as being distinct from one another because of their diverse chemical structure. Applicants respectfully disagree.

As recited in independent Claim 1, "X is absent or is oxygen". Applicants respectfully submit that absent or oxygen neither represents diverse chemical structures, different chemical properties, different modes of action, different effects, nor different reactive conditions. Moreover, compounds having at position X moieties as recited in independent Claim 1 would be presumed to function similarly by one of ordinary skill in the art. Additionally, it is respectfully submitted that the search classification for each invention group substantially overlap. Applicants respectfully submit that such search can be concurrently performed and that the Examiner will not be seriously burdened by searching and considering the inventions as described in all the presently filed claims. Accordingly, Applicants request withdrawal of the Restriction Requirement from Inventions I – IV and XI - X.

By this election, Applicants do not admit, nor do Applicants waive the right to argue against at a later date, the Examiner's statement that the groups of inventions are patentably distinct. Applicants expressly reserve the right to present the claims of Groups I-VI, or other claims in one or more divisional, continuation, or continuation-in-part applications at a later date.

Should the Examiner have any questions or comments, or need any additional information from Applicant's attorney, the Examiner is invited to contact the undersigned at her convenience.

Respectfully submitted,

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4